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Letter dated 29 December 2014 from the Permanent Representative of Switzerland to the United Nations addressed to the Secretary-General

By note verbale of 22 July 2014, Switzerland, in its capacity as depositary of the Geneva Conventions, notified the High Contracting Parties that consultations on the possible convening of a conference of High Contracting Parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War would resume, in accordance with paragraph 5 of General Assembly resolution 64/10 and in the light of the various reports prepared by the depositary regarding the implementation of this recommendation. As indicated in the report of the United Nations High Commissioner for Human Rights of 7 October 2014 (A/HRC/27/76), in response to a request for additional information in respect of Human Rights Council resolution S-21/1, Switzerland also informed the Office of the United Nations High Commissioner for Human Rights about the resumption of consultations.

From 28 July to 3 December 2014, Switzerland, through its Permanent Mission in Geneva, held extensive consultations with a broad cross section of High Contracting Parties from all geographic regions, emphasizing its willingness to engage in bilateral dialogue with any other Party that so wished. It also consulted with international stakeholders, such as the International Committee of the Red Cross (ICRC). The consultations focused on the desirability of holding the conference as well as its objective, agenda and modalities. Acting as an impartial facilitator, Switzerland thus sought to determine the will of the High Contracting Parties to the Geneva Conventions. In accordance with existing practice, the depositary conducted these consultations on the understanding that the proposed conference should be inclusive and constructive and have the objective of strengthening respect for international humanitarian law. Based on the comments and contributions of the High Contracting Parties, international humanitarian law and the two previous conferences held in 1999 and 2001, a draft declaration and draft modalities were developed with the goal of reflecting the views of as many of the High Contracting Parties as possible.

In accordance with the agreed modalities, the final draft declaration would be presented for adoption by consensus, without a vote. The Parties should be

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represented at the level of permanent representatives of the permanent missions in Geneva. Only statements by established groups would be accepted. National statements could not be delivered in the plenary but could be transmitted in writing to the depositary up to 24 hours before the start of the conference. The modalities also stated that the conference would be closed to the public and the media; only selected organizations would be invited to participate as observers.

On 9 December 2014, the depositary found that a critical mass of High Contracting Parties from across regions supported the organization of a conference on the basis of the modalities and the text of the final draft declaration. Therefore, by note verbale of 10 December, the depositary notified all of the High Contracting Parties that a conference would take place. A small number of States Parties expressed their opposition to the holding of a conference and did not participate.

On 17 December 2014, 128 High Contracting Parties participated in the Conference of High Contracting Parties to the Fourth Geneva Convention, held at the World Meteorological Organization in Geneva, and adopted by consensus a 10-point declaration (see annex). The depositary and representatives of ICRC and the United Nations Relief and Works Agency for Palestine Refugees in the Near East delivered statements and several High Contracting Parties spoke on behalf of established groups. The depositary will soon transmit the official conference documents to all High Contracting Parties. This concludes the actions of the depositary in respect of the recommendation set out in paragraph 5 of General Assembly resolution 64/10.

I should be grateful if you would have the present letter and its annex circulated as a document of the sixty-ninth session of the General Assembly, under agenda item 63, and of the Security Council.

(*Signed*) Paul **Seger**
Ambassador
Permanent Representative

Annex to the letter dated 29 December 2014 from the Permanent Representative of Switzerland to the United Nations addressed to the Secretary-General

Declaration of 17 December 2014 adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention

1. This Declaration reflects the common understanding reached by the participating High Contracting Parties to the Conference of High Contracting Parties to the Fourth Geneva Convention on 17 December 2014, mindful of the recommendation by the United Nations General Assembly in resolution 64/10 of 1 December 2009.

2. The participating High Contracting Parties reaffirm the statement of the Conference of High Contracting Parties to the Fourth Geneva Convention of 15 July 1999 and the Declaration of 5 December 2001.

3. The participating High Contracting Parties reiterate the need to fully respect the fundamental principles of international humanitarian law, according to which all parties to the conflict, and as such also non-State actors, must respect, at all times, inter alia, (1) the obligation to distinguish between civilians and combatants and between civilian objects and military objectives; (2) the principle of proportionality; and (3) the obligation to take all feasible precautions to protect civilians and civilian objects. In addition, the participating High Contracting Parties emphasize that no violation of international humanitarian law by any party to a conflict can relieve the other party from its own obligations under international humanitarian law.

4. The participating High Contracting Parties emphasize the continued applicability and relevance of the Fourth Geneva Convention, which all High Contracting Parties have undertaken to respect and to ensure respect for in all circumstances. As such, they call on the occupying Power to fully and effectively respect the Fourth Geneva Convention in the Occupied Palestinian Territory, including East Jerusalem. They also remind the occupying Power of its obligation to administer the Occupied Palestinian Territory in a way which fully takes into account the needs of the civilian population while safeguarding its own security, and notably preserve its demographic characteristics.

5. The participating High Contracting Parties recall the primary obligation of the occupying Power to ensure adequate supplies of the population of the occupied territory and that whenever it is not in a position to do so, it is under the obligation to allow and facilitate relief schemes. In that case, they further recall that all High Contracting Parties shall permit the free passage of humanitarian relief and shall guarantee its protection. In this regard, the participating High Contracting Parties reiterate their support to the activities of the International Committee of the Red Cross, within its particular role conferred upon it by the Geneva Conventions, of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, and of other impartial humanitarian organizations, to assess and alleviate the humanitarian situation in the field. Beyond, all parties to the conflict, and as such also non-State actors, should make all possible efforts to allow and facilitate rapid and unimpeded passage of humanitarian relief for the population of the occupied territory.

6. The participating High Contracting Parties emphasize that all serious violations of international humanitarian law must be investigated and that all those responsible should be brought to justice.

7. The participating High Contracting Parties express their deep concern about recurring violations of international humanitarian law by all parties to the conflict, and as such also by non-State actors, including in the context of military operations and attacks directed against and emanating from the Occupied Palestinian Territory since the Conference of High Contracting Parties on 5 December 2001 and the resulting great suffering of the civilian population. They are particularly concerned about the number of victims among the civilian population in densely populated areas.

8. The participating High Contracting Parties express their deep concern about the impact of the continued occupation of the Occupied Palestinian Territory. They recall that, according to the advisory opinion of the International Court of Justice of 9 July 2004, the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, at least insofar as it deviates from the Green Line, and its associated regime, are contrary to international humanitarian law. They equally express their deep concern, from an international humanitarian law standpoint, about certain measures taken by the occupying Power in the Occupied Palestinian Territory, including the closure of the Gaza Strip. They reaffirm the illegality of the settlements in the said territory and of the expansion thereof and of related unlawful seizure of property as well as of the transfer of prisoners into the territory of the occupying Power.

9. With regard to the conduct of hostilities, the participating High Contracting Parties underscore that the following acts are, among others, prohibited by international humanitarian law for all parties to the conflict, and as such also for non-State actors: (1) indiscriminate attacks of any kind, including attacks which are not directed at specific military objectives, and the employment of a method or means of combat which cannot be directed at a specific military objective or whose effects do not meet the requirements of the principles mentioned in paragraph 3 of this Declaration; (2) disproportionate attacks of any kind, including excessive destruction of civilian infrastructure; (3) destruction of property, carried out inconsistently with the principles mentioned in paragraph 3 of this Declaration; (4) attacks against protected persons and objects, including medical buildings, material, transports, units and personnel, as well as humanitarian personnel and objects, unless and for such time as they have lost their protection against direct attack; (5) attacks against civilian objects, including schools, unless and for such time as they are military objectives; (6) the location of military objectives in the vicinity of civilians and civilian objects, when it would be avoidable and (7) the use of civilians as human shields.

10. The participating High Contracting Parties reiterate the need to find a peaceful solution to the conflict, and stress that respect for and implementation of the Fourth Geneva Convention and international humanitarian law in general is essential to achieve a just and lasting peace.